

ETHICS AND DISCIPLINE

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I. INTRODUCTION

The Court decided these cases between March 1, 2011, and March 7, 2012. Table 1 indicates the number of cases in which an attorney violated either a Kansas Rule of Professional Conduct (KRPC) or a Kansas Supreme Court Rule (SCR). Table 2 shows the disciplinary disposition imposed due to the violations.

Table 1

Rule	Total Violations
KRPC 1.1	5
KRPC 1.3	7
KRPC 1.4	6
KRPC 1.5	3
KRPC 1.15	6
KRPC 1.16	1
KRPC 3.2	4
KRPC 3.5	1
KRPC 5.1	1
KRPC 5.5	1
KRPC 8.1	4
KRPC 8.3	1
KRPC 8.4(a)	3
KRPC 8.4(b)	5
KRPC 8.4(c)	2
KRPC 8.4(d)	4
KRPC 8.4(g)	3
SCR 116	1
SCR 203	2

SCR 207	4
SCR 208	3
SCR 211	5
SCR 218	1

Table 2

Disposition	Times Ordered
Published Censure	1
Probation	0
Definite Suspension	2
Indefinite Suspension	6
Disbarment	4
Surrender of License/Disbarment	5
Probation Revocation	1

DISBARMENT

In the Matter of Kevin C. Harris
292 Kan. 521, 257 P.3d 1231 (2011)
July 22, 2011
Disbarment

Rules violated: Kansas Supreme Court Rule 207(b) (failure to cooperate in disciplinary investigation), 208(c) (failure to notify Clerk of Appellate Courts of change of address), 211(b) (failure to file timely answer in disciplinary complaint) and 218(a) (failure to notify clients upon suspension).

Harris appeared *pro se*.

Harris represented Dale Wesselman in a mortgage foreclosure case. Harris had represented Wesselman in a prior matter. Harris did not practice in the mortgage foreclosure arena, so the agreement between the parties was that Harris would attempt to protect Wesselman against a default judgment, but would associate with other counsel to resolve the foreclosure issue.

Wesselman provided Harris with all of his documents that related to the foreclosure action.

The Johnson County online docket information incorrectly noted that the foreclosure action was dismissed with prejudice. Based on this information, Harris believed the case was concluded, although he had not received any order from the court or opposing counsel.

Two months later, the docket showed the case had been reopened and default judgment had been entered against Wesselman. One month later, Harris was suspended from the practice of law for a period of two years. *In re Harris*, 286 Kan. 532, 186 P.3d 737 (2008).

Upon learning of the default judgment, Wesselman contacted Harris. At the time Wesselman contacted Harris, Harris was suspended.

Harris and Wesselman met. For the first time, Harris provided Wesselman with a letter saying that Harris was suspended from the practice of law. Harris told Wesselman that Kent Docking would be representing Wesselman. Harris presented Wesselman with a document that Harris had prepared to be used in an attempt to set aside the default judgment.

Docking entered his appearance and was subsequently disbarred.

Wesselman learned he was being evicted and did not have a lawyer who could represent him. Wesselman went to see the assigned judge and

told him his story. The Administrative Judge set aside the eviction order and assigned new counsel to Wesselman. In the Order, the Judge found that Harris had neglected Wesselman's case. That Order was sent to the Office of the Disciplinary Administrator and formed the basis for the disciplinary action.

The disciplinary investigation commenced. Harris provided an initial written response. In the letter, Harris indicated he had communicated with Wesselman and was trying to rectify the situation.

The assigned investigator sent Harris a letter requesting an appointment for an interview and copies of documents that would support Harris' assertions he had communicated with Wesselman. Harris did not respond. Harris was reminded by letter he needed to respond to the investigator's request. He did not respond.

Harris attempted to docket Wesselman's case with the Kansas Court of Appeals. The clerk's office returned the pleading.

Harris still did not respond to the investigator, instead, he contacted the local chairperson of the Ethics and Grievance Committee. The chairperson sent the information provided by Harris to the investigator. The chairperson reminded Harris he had a duty to cooperate. Harris never met with the investigator. Harris never provided his file. Harris never produced the documents Wesselman had provided to him.

Harris violated Kansas Supreme Court Rule 207(b) when he failed to meet with the investigator and produce the requested documents.

Harris violated Kansas Supreme Court Rule 208(c) when he failed to provide his current address to the Clerk of the Appellate Court for two years.

Harris violated Kansas Supreme Court Rule 211(b) when he failed to file an answer to the

Formal Complaint within 20 days of the issuance of the Complaint. Harris filed his answer the day before the hearing.

Harris violated Kansas Supreme Court Rule 218(a) when he failed to “forthwith” notify his clients of his suspension.

This was Harris' fourth disciplinary hearing. After each hearing, Harris had been disciplined.

Harris was disbarred.

In the Matter of Paul C. Terry
293 Kan. 467, 265 P.3d 537 (2011)
October 21, 2011
Disbarment

Rules violated: 1.1 (competence); 1.3 (diligence); 1.4(a) (communication); 1.5(d)(fees); 1.15(a) and (d)(2)(v) (safekeeping of property and production of trust account records for examination); 1.16(d) (termination of representation); 8.1(b) (failure to respond to lawful demand for information from disciplinary authority); 8.4(c) (engaging in conduct involving misrepresentation); 8.4(d) (engaging in conduct prejudicial to the administration of justice); and Kansas Supreme Court Rule 211(b) (failure to file timely answer in disciplinary proceeding).

Terry was represented by counsel.

Terry was admitted to the practice of law in 2004. Terry was suspended from the practice of law in 2006 for failure to comply with annual registration requirements. He was reinstated in 2007. Four months later, Terry was again suspended for failure to comply with the annual registration requirements. He was reinstated sixteen months later. Twenty months later, Terry was again suspended for failing to comply with the annual registration requirements. At the time of the present disciplinary action, his license was suspended.

In 2007, while his license was suspended, Terry

agreed to represent a client in a Missouri action. Terry was not licensed in Missouri. Terry agreed to associate with a licensed Missouri attorney.

The case was a wrongful termination matter. Terry and the client agreed to an hourly rate and that Terry would receive one-third of any award. The client paid a retainer. Terry deposited the retained in his operating account. Terry promised the client he would prepare a written engagement contract. Terry did not prepare a written engagement contract.

Terry used the retainer for personal expenses.

Terry prepared a petition. Missouri counsel edited the petition and signed the petition. Terry personally filed the petition in Missouri. Terry did not advise the client that the Missouri lawyer was the attorney of record.

Terry requested the client pay additional money. Terry again told the client he would provide a written engagement contract. The client provided additional money. Terry did not produce a written fee contract. Terry again deposited the money in his operating account. Terry again used the money to pay personal expenses.

Terry stopped working on the case.

Terry stopped communicating with the client.

The case was dismissed for lack of prosecution. Terry did not notify the client of the dismissal. The client learned of the dismissal by viewing the court's online docket.

The Missouri Supreme Court disbarred the Missouri attorney who was listed as the attorney of record.

Terry did not respond to the initial informal request for information from the Office of the Disciplinary Administrator. The case was assigned to an investigator. Terry did not

respond to the investigator's initial request for information. Eventually, Terry did meet with the investigator.

Terry told the investigator he deposited the client funds into his trust account. The investigator requested Terry provide accounting information for his trust account. Terry did not provide the accounting information.

The Office of the Disciplinary Administrator issued a subpoena to Terry requiring Terry to produce the required trust account records. Terry failed to respond to the subpoena. At the hearing, Terry testified that his bank had merged with another bank and as a result, no accounting records were available.

In addition to issuing a subpoena to Terry, the Office of the Disciplinary Administrator issued a subpoena to the bank Terry provided in his annual attorney registration information as being the holder of his trust account. The bank produced Terry's trust account records. The funds had not been deposited into the trust account.

Terry failed to file an answer to the Formal Complaint within 20 days of the issuance of the Complaint. Terry, through counsel, did file an answer five days prior to the hearing. In the answer, Terry admitted to violating KRPC 1.1, KRPC 1.3, KRPC 1.4, KRPC 1.5(d), KRPC 1.15(d)(2)(v), KRPC 1.16(d), KRPC 8.1(b) and KRPC 8.4(c).

Terry violated KRPC 1.1 when he agreed to represent the client in an employment discrimination case. Terry had no experience in employment discrimination cases and did not take adequate steps to become competent.

Terry did little or no work on the case after the petition was filed. This conduct violated KRPC 1.3.

Terry violated KRPC 1.4(a) when he stopped communicating with the client.

Terry violated KRPC 1.5(d) when he entered into a contingency agreement with the client and did not reduce the agreement to writing.

Terry deposited the client funds into his operating account and then used the funds, prior to the fee being earned, for personal expenses. This conduct violated KRPC 1.15(a).

Terry violated KRPC 1.15(d)(2) when he failed to maintain and produce his trust accounting records.

Terry violated KRPC 1.16 when he failed to return unearned fees to the client.

Terry's failure to cooperate with the investigator's requests for information violated KRPC 8.1(b).

Terry violated KRPC 8.4(c) when he engaged in deceitful conduct by not informing the client he was not licensed in Missouri, that his Kansas license was suspended, and that the case had been dismissed.

Terry violated Kansas Supreme Court Rule 211(b) when he failed to file a timely answer to the Formal Complaint.

The Court found that Terry's failure to notify the client that the case had been dismissed caused the client to lose the opportunity to find new counsel to file a new action within the statute of limitations. The Court also found that Terry had actively practiced law while his license was suspended and "basically ignored the Disciplinary Administrator's Office.

Terry was disbarred.

In the Matter of David F. Holmes
293 Kan. 478, 264 P.3d 423 (2011)
October 21, 2011
Disbarment

Rules violated: 1.3 (diligence); 1.5 (fees);

1.15(a) and (d) (safekeeping of property); 3.2 (expediting litigation); 8.4(c) (engaging in conduct involving misrepresentation); and 8.4(g) (engaging in conduct that adversely reflects on lawyer's fitness to practice law).

Holmes was represented by counsel.

This disciplinary action involved four separate complaints.

Holmes agreed to represent a woman in an uncontested divorce case. The client made a \$750.00 down payment on a \$1,500 flat fee.

During the representation of the woman, Holmes increased his fee. The woman agreed, but asked for an itemized billing statement. It took Holmes four months to produce the billing statement.

Part of the delay was due to the destruction of Holmes' law office by a SWAT team after an armed gunman had entered the office and held the staff hostage. Holmes then relocated to a temporary office. That office then burned down.

When the woman failed to pay the balance of the fee, Holmes filed a suit against her.

Prior to trial on the unpaid fees, Holmes and the client reached an agreement. The settlement agreement was not reduced to writing by Holmes. The client sent him a letter that outlined her understanding of the agreement.

Holmes did not respond to the letter. The court entered a Journal Entry of Judgment against the client. The Journal Entry was prepared by Holmes and approved by the client. The Journal Entry did not memorialize that payments were to be made or the dates that the payments were due.

The client believed she was to make her first payment in February. Holmes does not dispute that claim. Despite the apparent understanding

between the parties, Holmes filed a request for garnishment in January. The client worked for the bank where the garnishment was executed. The garnishment caused great humiliation for the client. Despite the financial strain, the client immediately paid the judgment in full.

Holmes was retained to probate an estate. His \$2,500 fee was "non-refundable." Holmes immediately deposited the funds into his operating account.

A petition for probate was filed. The court advised a conservatorship was required because real property had been left to a minor. For months, Holmes failed to file for a conservatorship. He also failed to take any steps to make sure the executor filed a timely inventory.

One of the many heirs made attempts to find out information about the matter. Holmes did not communicate with her. She filed a disciplinary complaint that was dismissed because the Complainant was not a client of Holmes, therefore, he had no duty to communicate with her.

That heir retained counsel to represent her interests in the estate.

The heirs' lawyer filed a motion to require an inventory. Pursuant to the Order, an inventory was filed.

The court notified Holmes it was going to dismiss the conservator matter due to lack of prosecution. Holmes filed a petition for extension of time for appointment of conservator, then did nothing more.

Holmes then filed a petition for final settlement. He did not attach an accounting to the petition, had not completed the conservatorship so the real property could be distributed and did not properly publish the petition.

The heir filed an objection alleging Holmes had

not filed income tax returns, failed to properly publish the final petition, charged excessive fees and had billed the estate for time spent responding to the disciplinary complaint filed by the heir. Two additional heirs also filed objections.

The judge filed a disciplinary complaint against Holmes. In his initial answer to the complaint, Holmes admitted he billed the estate for time spent answering the prior disciplinary complaint.

Holmes then filed a second amended petition. The court found that the petition failed to list the real property, failed to comply with the Soldiers and Sailors Relief Act of 1949, failed to establish a conservatorship, failed to attach an accounting to the petition, failed to publish the petition as required by statute, and failed to ensure that the tax returns were filed. The court also reduced the claimed attorney fees from \$9,739.00 to \$3,150.00.

The judge provided her memorandum decision to the Office of the Disciplinary Administrator. Holmes was asked to respond to the adverse findings in the decision. Holmes responded by characterizing the judge's decision as "punishing, mean and extremely punitive." Holmes contended his lack of attention to the matter was due to the problems he had experienced with his office. The vast majority of this case occurred prior to the armed intruder entering the office and the problems continued well after Holmes was in a new office.

Holmes was appointed as the fifth conservator for an elderly man. Prior to Holmes' appointment, the man's daughter had been acting as conservator. The daughter had removed the man from a nursing home back to his own home. The daughter then provided total care for her father. In caring for her father, the daughter incurred total expenses of \$87,602.89.

As the fifth conservator, Holmes controlled the

distribution of funds. Holmes and the daughter did not agree on the daughter's claim for reimbursement for expenses. Holmes agreed to pay the daughter \$4,000.00 a month. Holmes did not pay the daughter \$4,000.00 per month.

Meanwhile, Holmes paid himself \$38,615.00 for his services as conservator. Holmes did not seek prior court approval before advancing himself the payments. Holmes contended he was not required to follow the statute because the Order appointing him conservator provided he could be compensated his hourly rate for services rendered.

Other than the first payment he made to himself, all other payments were advance fees for work he contemplated completing in the future. Holmes paid himself so much in advance, he had more than a \$6,000 credit for services that had not been rendered.

Holmes did not deposit the advance payments into his trust account. He deposited the fees into his operating account and then spent the money on personal expenses.

After being ordered to reimburse the daughter for her expenses, Holmes paid himself an additional \$12,000.00. The daughter was never reimbursed for the full amount of her expenses.

Holmes never made a complete inventory of the estate. Despite a court order appointing Holmes as executor of the estate, Holmes failed to prepare the appropriate orders appointing himself as executor.

Holmes billed the estate for time spent meeting with the investigator appointed by the Office of the Disciplinary Administrator to investigate the second disciplinary complaint filed in this single probate case.

The court, upon reviewing the issues raised during the pendency of the matter, found that Holmes had paid himself advance fees. The court stated that the better practice would have

been for Holmes to have sought court approval before taking the advance fees. However, the court found that Holmes' itemization for fees was reasonable and he was entitled to all of the claimed fees. The court found that the amount of fees incurred were due to the heirs' inability to agree on anything. The court did deny Holmes' request for additional fees.

A third client retained Holmes to represent her in a dispute with her son regarding real property. Over the course of the representation, the client paid Holmes \$14,000.00. Holmes deposited unearned fees into his operating account and into his personal account. He used the unearned fees for personal expenses.

The client became subject to an involuntary conservatorship. Holmes represented the client in this matter and requested he be appointed conservator as he already held a durable power of attorney. During the conservatorship, the client paid Holmes \$12,000.00. Again, Holmes deposited the unearned fees into his operating account and his personal account. Again, Holmes used the unearned fees to pay personal expenses.

Eventually, the court appointed a bank to act as a temporary conservator. The court also ordered Holmes to take no action under the authority of his durable power of attorney.

The court eventually appointed another conservator. Despite this, Holmes continued to represent the client in the original real property dispute matter. At the time the new conservator was appointed, Holmes had a credit balance of \$5,392.00 in fees he had taken for work he contemplated doing in the future. Holmes only repaid \$1,000.00 of the unearned attorney fees.

The court was then asked to clarify Holmes' role in the client's legal affairs. The court issued an order requiring Holmes to surrender all files that related to the client, copies of billing statements sent to the client, and an accounting of all of the client's assets that

Holmes had controlled. The court clarified that Holmes' representation of the client had ceased when the new conservator was appointed.

During the disciplinary investigation, it was discovered that at the time Holmes was taking advance fees, he was in need of cash. Holmes had filed for bankruptcy protection and Holmes was required to make monthly payments to the trustee. According to all of the bank records obtained during the disciplinary investigation, Holmes was using the advance fee funds to make his bankruptcy payments. He also used advance fees to fund two trips to Las Vegas.

Holmes violated KRPC 1.3 when he failed to timely perform work for all of his clients.

Holmes stipulated his fees in all three matters were unreasonable and in violation of KRPC 1.5.

Holmes violated KRPC 1.15(a) by failing to deposit unearned fees into his trust account.

Holmes violated KRPC 1.15(d) by comingling all of the clients' funds with his own.

Holmes violated KRPC 3.2 when he failed to make reasonable efforts to conclude the estate and conservatorship matters.

Holmes violated KRPC 8.4(c) when he engaged in systematic dishonest conduct by obtaining advance fees and then converting those fees for personal use. He was also found to have submitted false evidence during the disciplinary process.

Holmes violated KRPC 8.4(g) when he filed the garnishment action before the time he and the client agreed a payment was due. Additionally, conversion of client property for personal use is evidence of misconduct that adversely reflects on a lawyer's fitness to practice law.

Prior to the present case, Holmes had been disciplined six times.

Holmes was disbarred.

In the Matter of Eric Tolen

____ Kan. ____, 265 P.3d 546 (2011)

December 2, 2011

Disbarment

Rules violated: 8.4(b) (commission of a criminal act reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer); Supreme Court Rules 203(c) (failure to notify Disciplinary Administrator of felony charges); and 208 (failure to notify the Clerk of the Appellate Courts of change of address).

Respondent appeared *pro se* but not in person due to being incarcerated.

Tolen was licensed in Kansas and Missouri. Tolen had been an Assistant United States Attorney at one point in his career.

In 2007, Tolen was charged with 18 felony counts of statutory sodomy in Missouri. While out on bond, Tolen had contact with an alleged victim in violation of his bond conditions. The State amended the charges to a total of 38 charges—two counts of first-degree statutory sodomy, unclassified felonies; 34 counts of statutory sodomy, second degree, class C felonies; one count of attempted statutory sodomy, second degree, class C felony and one count of victim tampering, class D felony.

Tolen proceeded to a jury trial. At trial, the State produced evidence that Tolen had befriended several teen-age boys and encouraged them to do work at his home. After a period of time, Tolen would offer the boys bikes, cars, cell phones and cigarettes in exchange for sex. The boys testified Tolen would let them “pay” for the items with oral and anal sex.

The jury convicted Tolen of all but the single count of attempted statutory sodomy. Tolen was sentenced to 65 years in prison. Tolen

appealed his convictions and sentence. Both were upheld.

Tolen was disbarred in Missouri.

Tolen violated KRPC 8.4(b) by repeatedly engaging in felonious criminal conduct.

Tolen violated Supreme Court Rule 203(c) by failing to report his felony charges.

Tolen violated Kansas Supreme Court Rule 208(c) by failing to update his address with the Clerk of the Appellate Courts.

Tolen was disbarred.

**SURRENDER OF LICENSE RESULTING
IN DISBARMENT**

In the Matter of Marc A. Schultz

____ Kan. ____, ____ P.3d ____, No. 10407,

March 7, 2012

Disbarment

Marc Schultz voluntarily surrendered his license pursuant to Kansas Supreme Court Rule 217 on February 27, 2012. At the time Schultz surrendered his license, a complaint had been docketed by the Disciplinary Administrator's office in accordance with Supreme Court Rule 211 (2011 Kan. Ct. R. Annot. 334). The complaint alleged that Schultz violated Supreme Court Rule 8.4(b) (2011 Kan. Ct. R. Annot. 618).

In the Matter of Leslie C. Schaefer

____ Kan. ____, ____ P.3d ____, No. 10407,

March 1, 2012

Disbarment

Leslie Schaefer voluntarily surrendered her license pursuant to Kansas Supreme Court Rule 217 on February 27, 2012. At the time Schaefer surrendered her license, a complaint had been docketed by the Disciplinary

Administrator's office in accordance with Supreme Court Rule 211 (2011 Kan. Ct. R. Annot. 334). The complaint concerns allegations that Schaefer violated Supreme Court Rule 207 (2011 Kan. Ct. R. Annot. 314); Supreme Court Rule 208 (2011 Kan. Ct. R. Annot. 327) and Kansas Rules of Professional Conduct 1.15 (2011 Kan. Ct. R. Annot. 519) (safekeeping property); 8.1 (2011 Kan. Ct. R. Annot. 609) (bar admission and disciplinary matters), and 8.4(c) and (g) (2011 Kan. Ct. R. Annot. 618) (misconduct).

In the Matter of Jerrod Blecha

_____ Kan. _____, 264 P.3d 115 (2011)

October 24, 2011

Disbarment

Jarrod Blecha voluntarily surrendered his license pursuant to Supreme Court Rule 217 on October 20, 2011. At the time Blecha surrendered his license, a panel hearing on the complaint was pending. The complaint alleged Blecha had violated KRPC 8.3(a) (failing to report misconduct); 8.4(b) (commission of a criminal act that reflects on lawyer's honesty or fitness); Supreme Court Rules 203(c)(1) (duty to report being charged with a felony crime) and 208(c) (failure to update address with the Clerk of the Appellate Court).

In the Matter of Brian S. Carroll

_____ Kan. _____, 263 P.3d 180 (2011)

November 7, 2011

Disbarment

Brian Carroll voluntarily surrendered his license pursuant to Supreme Court Rule 217 on October 10, 2011. At the time he surrendered his license, Carroll had pled no contest to one count of felony theft in violation of K.S.A. 21-3701(a)(1) for stealing \$70,749.33 from his church, while he was treasurer.

In the Matter of Mark P. Tilford

292 Kan. 238, 252 P.3d 573 (2011)

June 3, 2011

Disbarment

Mark Tilford voluntarily surrendered his license to practice law pursuant to Supreme Court Rule 217 on June 3, 2011. At the time Tilford surrendered his license, a panel hearing was pending on a complaint that alleged Tilford violated KRPC 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness).

INDEFINITE SUSPENSION

In the Matter of Shelley Kurt Bock

_____ Kan. _____, 265 P.3d 552 (2011)

December 2, 2011

Indefinite suspension

Rules violated: 1.1 (competence); 1.3 (diligence); 1.4(a) (communication); 3.2 (expediting litigation); 8.1(b) (failing to respond to disciplinary authority); and Kansas Supreme Court Rule 207(b) (failure to cooperate in disciplinary investigation). Bock was also found to be in violation of his probation as ordered by the Court on February 1, 2008. *In re Bock*, 285 Kan. 815, 175 P.3d 233 (2008).

Bock was represented by counsel.

In a prior case, Respondent had been placed on probation for three years beginning on February 1, 2008.

This disciplinary action involved five separate complaints.

In 2009, Bock was retained to expunge criminal convictions. Bock told the client that the filing fees would total \$500.00. The client paid \$500.00.

The client appeared at Bock's office for a scheduled appointment. After waiting two hours, the client was informed Bock was out of

the country. Bock did not return calls after his return.

After the disciplinary complaint was filed, Bock started working on the expungements. At that time, Bock determined the requirements for expungement had not been met. Eventually, the expungements were completed.

Bock was appointed by his local District Court to serve on the juvenile panel in the 1980's. As a member of the panel, Bock was regularly appointed to represent parents in child in need of care cases, serve as a *guardian ad litem*, and to defend juveniles in criminal cases.

Each Friday, the panel members would receive electronic mail messages that would include calendar information for the upcoming week. In addition, the court mailed notices of hearings to the panel members.

The attorney of a mother of three children involved in CINC cases requested that the children be present for a hearing. Bock was the *guardian ad litem*. The CASA thought that having the children present would be traumatic for the children. The CASA sent Bock an email requesting he meet with his clients to discuss the matter. Bock did not respond.

The case manager attempted to set up a meeting with Bock, the CASA, the parent educator and a therapist. Bock did not respond to the email request for a meeting.

The case manager saw Bock in person at the courthouse. A meeting date and time were set. Bock did not appear for the meeting. The meeting was rescheduled. Bock appeared.

A second meeting was scheduled so one child could attend. The CASA transported the child from her placement. Respondent failed to appear for the meeting.

The next day the CASA sent Bock an electronic mail message requesting he contact her to

explain his absence. Respondent responded to the mail message and promised to call the CASA the next day. Respondent did not call the CASA as promised.

The CASA sent another electronic mail message requesting a call. The CASA learned Bock had scheduled a meeting with the younger children at their foster home at 7 p.m. Bock called from a soccer game at 7:30 p.m., saying he was running late. He arrived at 8:30 p.m. and stayed until 10:30 p.m. The children were 4-years-old and a 10-years-old.

Bock failed to appear for a permanency hearing despite having been sent notice of the hearing by electronic mail and by regular mail. An attorney went to Bock's office and found him. Bock left his office without his file and arrived at the courthouse too late for the court to conduct the hearing.

The Chief Judge met with Bock to discuss how Bock could improve his calendaring and make sure he appeared for court settings.

Bock was a *guardian ad litem* for another child. At the conclusion of one hearing, the court set the next hearing. The day after his meeting with the Chief Judge, Bock failed to appear for the hearing that had been announced from the bench. Bock was located and appeared thirty-five minutes late. Bock announced he had calendared the case for the wrong day.

Thereafter, Bock had no contact with his client.

A District Court judge filed a disciplinary complaint. Respondent failed to respond to the complaint in writing.

Bock represented two clients who were approved for criminal diversions. Bock advised the court signed agreements would be filed. No further court appearances were scheduled as a result of Bock's assertion.

The agreements were never filed.

The District Attorney reinstated the cases. The Court gave Bock 23 days' notice of the next hearing. Bock failed to appear.

The judge filed a disciplinary complaint. Bock failed to provide a written response to the complaint.

Bock failed to appear at a sentencing. He was cited for contempt. During the hearing regarding why he should not be held in contempt, Bock said he had not properly calendared the sentencing and had been in a different county on the day of the sentencing. Bock told the court that the other setting had taken past 4:20 p.m. and he could not make it for the 4:00 p.m. setting. The court held Bock in contempt and admonished him to appear for all scheduled court settings.

Since Bock was on probation, his supervising attorney, investigated the matter. That attorney learned that the out-of-county matter had been set at 1:30 p.m. and had concluded by 2:15 p.m., which gave Bock ample time to be present for the sentencing.

The judge forwarded the contempt citation to the Office of the Disciplinary Administrator. Bock was required to provide a written response to the complaint. Bock never provided a written response.

On July 26, 2010, Bock and the Office of the Disciplinary Administrator entered into a Memorandum of Understanding. Bock consented to be temporarily suspended starting September 3, 2010. The intervening time was to be used by Bock to notify judges and his clients that he was going to be suspended, so all parties could make arrangements for coverage of Bock's cases. Bock was suspended pursuant to the agreement on September 8, 2010.

Bock did not competently represent any of his clients by his actions, thereby violating KRPC 1.1.

Bock violated KRPC 1.3 when he failed to act with reasonable diligence in representing each of his clients.

Bock failed to communicate with his clients, thereby violating KRPC 1.4.

Due to Bock's failure to appear for scheduled matters, Bock's client's cases languished. This conduct violated KRPC 3.2.

Bock's failure to respond to the various disciplinary complaints in writing violated KRPC 8.1(b) and Kansas Supreme Court Rule 207(b).

During the disciplinary hearing, Bock attempted to give the impression he had voluntarily given up being a part of the juvenile appointment panel. Bock had been summoned to appear before the Chief Judge to discuss his participation on the panel. Bock failed to appear. The Court subsequently removed him from the panel.

The court indefinitely suspended Bock and ordered that should he seek reinstatement, he be required to participate in a reinstatement hearing as required by Kansas Supreme Court Rule 219 (2010 Kan. Ct. R. Annot. 370).

In the Matter of Marlin Johanning

287 Kan. 685, 199 P.3d 1251 (2011)

July 2011

Indefinite suspension

Rules violated: 1.15 (safekeeping of client property) and 8.4(d) (conduct prejudicial to the administration of justice).

Johanning was represented by counsel.

Johanning was appointed to represent a person accused of theft. The prosecution alleged the person was in possession of stolen guns and had attempted to dispose of the guns by throwing the guns into a river.

As part of the resolution of the case, a restitution order was entered. Payment of restitution was a condition of probation. Johanning instructed the client to come up with some cash prior to the execution of the plea agreement to show good faith.

The client gave Johanning \$1,300 in cash to show his good faith. Johanning did not deposit the money in his trust account.

The client pled guilty to theft and was given an eight-month underlying sentence. The sentence was suspended and the client was placed on probation and ordered to pay \$560.00 per month in restitution.

The client requested Johanning pay the \$1,300 to the court. Johanning did not pay the money to the court.

As a result of the funds not being paid to the court, the client was at risk of revocation. The probation officer met with the client. The client produced the receipt showing that he had given the respondent \$1,300 and explained that money was to have been used for restitution.

The probation officer turned the receipt over to the judge. The judge contacted Johanning. Johanning told the judge he would be able to provide the funds to the court within a couple of weeks. Later that same day, Johanning deposited \$1,300 with the court, plus \$50.00 of his own money to compensate for the time.

In his written answer to the disciplinary complaint, Johanning wrote that he often placed client funds in their files in his office and that this "would be one of those instances." At the hearing, under oath, Johanning testified he did not place the money in an envelope in his office. Asserting his right under the Fifth Amendment, he declined to explain what actually happened to the funds between the time he received the monies and when he turned the funds over to the court. In his

Answer to the Formal Complaint, Johanning wrote he should have deposited the funds in his trust account instead of placing it in an envelope in his office.

Johanning violated KRPC 1.15 by failing to place the \$1,300 in cash in his trust account.

Johanning violated KRPC 8.4(d) when he failed to promptly forward the cash to the court thereby endangering his client's probation.

Prior to the present disciplinary action, Johanning had been subject to discipline in four other cases.

Johanning requested he be placed on probation. The Hearing Panel recommended he be suspended for one year. The Kansas Supreme Court ordered Johanning to be indefinitely suspended from the practice of law. Further, the Court ordered that if Johanning were to ever apply for reinstatement, he will be required to undergo a reinstatement hearing pursuant to Kansas Supreme Court Rule 219 (2010 Kan. Ct. R. Annot. 370).

In the Matter of Cesar Alberto Baca
292 Kan. 390, 253 P.3d 348 (2011)

June 2011

Indefinite suspension

Rules violated: 8.4(a) (misconduct), 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer); 8.4(g) (engaging in conduct that adversely reflects on the lawyer's fitness to practice law); Supreme Court Rules 208 (failure to provide current registration to the Clerk of the Appellate Court and 211(b) (failure to timely file an answer).

Baca was represented by counsel. He appeared by telephone before the Hearing Panel because he was not permitted to leave the State of Colorado under the terms of his probation for a conviction of indecent exposure.

Respondent was licensed in both Kansas and Missouri. He lived in Missouri.

Between October 1, 2009 and October 9, 2009, Baca engaged in online communication with a female he believed to be 14 years old from his home in Missouri. He communicated under the names "machavalia" and "krazeecock." Baca represented himself as a 30-year-old male who lived in Colorado.

Baca uploaded and allowed to be displayed three different photographs of his penis to the purported minor. Conversation with the purported minor discussed her impressions. He also provided his cellular telephone number to the purported minor. Records show texts and phone calls were exchanged.

The minor was actually a law enforcement officer. Baca was contacted and admitted posting the photographs of his penis. Baca was originally charged with two counts of Internet Sexual Exploitation of a Child, level 4 felonies. Baca voluntarily surrendered to out-of-state authorities. The charges were amended to a single misdemeanor and Baca was sentenced to four years' probation. The conditions of probation included limitations of access to computers, registration as a sexual offender, restriction to living in the State of Colorado, and no contact with children, including his own children.

Baca self-reported but did not update his registration information to show he was residing in Colorado. He also did not pay the annual registration fee or obtain his Continuing Legal Education hours.

Baca violated KRPC 8.4 (a), (b) and (g) by engaging in the conduct that led to his criminal conviction.

Baca violated Kansas Supreme Court Rule 208(a) by failing to update his address with the Clerk of the Appellate Court and by not complying with the annual registration

requirements.

Baca violated Kansas Supreme Court Rule 211(b) when he failed to file an Answer to the Formal Complaint within 20 days of the issuance of the Formal Complaint.

Baca asked that he be censured for his conduct. The Disciplinary Administrator asked for a suspension. The Hearing Panel recommended a suspension until his discharge from probation. The Kansas Supreme Court ordered Baca to be indefinitely suspended and subject to a reinstatement hearing should he apply for reinstatement pursuant to Kansas Supreme Court Rule 219. (2010 Kan. Ct. R. Annot. 276).

[NOTE: Kansas Supreme Court Rule 203(c) has since been changed to require any lawyer charged with a crime that upon conviction will require registration as an "offender" report that they have been charged within 14 days of the charging date. Notice of conviction is also required.

The Rule provides:

"c) Automatic temporary suspension of attorneys convicted of a felony crime or any crime mandating registration by the attorney as an "offender" as defined by the Kansas Offender Registration Act, K.S.A. 22-4901 et seq.

(1) Duty of attorney to report. An attorney who has been charged with a felony crime (as hereinafter defined) or a crime that upon conviction mandates registration by the attorney as an "offender" as defined by K.S.A. 22-4902(a), or with an equivalent offense in any federal court of the United States or the District of Columbia or in any other state, territory, commonwealth, or possession of the United States shall within 14 days inform the Disciplinary Administrator in writing of the charge. The attorney shall inform the Disciplinary Administrator of the disposition of the matter within 14 days of disposition. Notice of appeal does not stay the reporting required

under this rule.” (2011 Kan. Ct. R. Annot. 281)]

In the Matter of Jimmie A. Vanderbilt
292 Kan. 262, 253 P.3d 774 (2011)

June 2011

Indefinite Suspension

Rules violated: 8.4(a) (misconduct); 8.4(d) (engaging in conduct prejudicial to the administration of justice); 8.4(g) (engaging in any other conduct that adversely reflects on the lawyer's fitness to practice law) and Kansas Supreme Court Rule 211(b) (failure to file timely answer in disciplinary proceeding).

Vanderbilt appeared *pro se*.

Vanderbilt was divorced from the mother of his children. Vanderbilt was ordered to pay \$940.00 a month in child support. The child support calculation was based on his salary as the Jefferson County Attorney.

In 2008, a judge issued an Order to Show Cause why Vanderbilt should not be held in contempt for failure to pay child support. At that time, Vanderbilt was in arrears in excess of \$60,000.00. Vanderbilt was found in contempt of court. The judge allowed Vanderbilt to purge the contempt by paying \$1,040 a month.

Vanderbilt did not make the required payments. In 2009, the court held another hearing. Vanderbilt failed to appear. The notice of hearing had been sent to the address on file for Vanderbilt which was at least two years old. The court issued a warrant for Vanderbilt's arrest.

Vanderbilt was arrested and taken into custody.

While Vanderbilt was in custody, he had a client who was scheduled to enter a plea in two criminal cases in a different court. He represented yet another client who was scheduled for a post-conviction hearing to show cause why her probation should not be revoked.

The day before the hearing, a person who identified herself as Vanderbilt's assistant, called the court and told the judge's assistant that Vanderbilt would not be able to appear as scheduled. The assistant did not inform the court that Vanderbilt was in jail. The judge's assistant told Vanderbilt's assistant that a motion for a continuance needed to be filed in order for the judge to consider the request.

Due to his incarceration, Vanderbilt was not able to file the motions. Vanderbilt did not contact another lawyer to help him. Vanderbilt did not appear for the scheduled matters. One of his clients appeared and was unaware her lawyer had planned on not being present.

A week after failing to appear for his client's cases, Vanderbilt was granted work release. He appeared before the judge before whom he had failed to appear and represent his clients. Vanderbilt told the judge he had missed the court appearance because he had been in jail. The judge informed Vanderbilt of the new dates for his client's matters.

The remaining sentence on the contempt charge was suspended, provided Vanderbilt made monthly payments. Vanderbilt was released from jail.

Vanderbilt was no longer the Jefferson County Attorney. His child support obligation was reduced to \$575.00 a month in March, 2010.

Since the inception of the contempt proceedings Vanderbilt has only made four child support payments. As of November 15, 2010, his child support arrearage totaled \$76,963.75.

At the disciplinary hearing, Vanderbilt admitted he had not kept his registration information current with the Clerk of the Appellate Court because he was living out of a camper and worked out of various county libraries, depending on which county he happened to be in at the time.

He acknowledged he received a copy of the Formal Complaint. Despite receiving the Complaint, he failed to file a timely Answer.

Vanderbilt stipulated to violations of KRPC 8.4(a), 8.4(d) and Kansas Supreme Court Rule 211(b). He denied violating KRPC 8.4(g).

Vanderbilt violated 8.4(g) by repeatedly failing to comply with court orders and knowingly driving on a suspended driver's license for months. Vanderbilt drove to the proceedings before the Hearing Panel when his license was suspended.

Vanderbilt had previously been suspended from the practice of law for misconduct on April 22, 2005. He was reinstated in July, 2007.

A majority of the Court ordered an indefinite suspension with the requirement that if Vanderbilt seeks reinstatement, he provides proof he has purged himself of the contempt of court. A minority of the Court would have disbarred Vanderbilt.

In the Matter of Conrad Doudin
292 Kan. 83, 249 P.3d 1190 (2011)
April 2011
Indefinite suspension

Rules violated: 1.1 (competence); 1.3 (diligence); 1.4(a) (communication); 1.15 (safekeeping of property); 3.2 (expediting litigation); 8.1(b) (failure to respond to a lawful demand for information from the disciplinary authority); Kansas Supreme Court Rules 207(b) (failing to cooperate in disciplinary investigation); and 211(b) (failure to timely file answer in disciplinary proceedings).

Doudin was represented by counsel.

This disciplinary action involves five separate complaints.

Doudin was retained in 2006 to modify child

visitation. There was a dispute between Doudin and his client about fees. Doudin agreed to file a motion to modify. Doudin did not file a motion until May, 2007.

Doudin was retained in 2007 for a divorce. He was paid an agreed-upon amount of \$500.00. Payment was made by presentation of two checks in the amount of \$250.00 each. Doudin cashed only one check.

Doudin did not immediately enter an appearance. He did not keep his client apprised of the status of her case. The client terminated his representation. Doudin refunded the full \$500.00.

Doudin was retained in December 2007 in a bankruptcy case. He filed the petition in February 2008. In June 2008, the bankruptcy court discharged the client. Respondent failed to cooperate with the investigator during the investigation of this complaint.

In December 2008, Doudin was retained in another bankruptcy case. These clients had a large accounts receivable that had not been paid that caused a cash-flow problem for their business. Doudin's retainer agreement required a \$1,300 payment, with \$758.00 identified as "fixed costs" and \$542.00 in "advanced costs" which were to be placed in trust. The clients paid the \$1,300.00. No funds were placed in trust.

Meanwhile, the clients received full sum of the outstanding account. Payment was received on December 24, 2008. Because of the payment the client's no longer needed to file bankruptcy.

On December 26, 2008, the clients notified Doudin they no longer needed his services.

In early January, 2009, Doudin advised the clients he would provide them with a partial refund. Doudin also claimed he had sent a demand letter to the obligor. Doudin promised he would provide them with a copy of the

demand letter.

As of February 19, 2009, the clients had neither a partial refund nor a copy of the demand letter.

In March, 2007, Doudin was retained to probate an estate. The decedent had died testate. Doudin was paid \$500.00. In October, 2007, the son signed a petition for informal administration and a family settlement agreement.

Doudin did not file the petition and agreement until December, 2007. He failed to attach any exhibits, failed to place an advertisement in the newspaper as a notice to creditors, and failed to have the son execute an oath as executor. No testamentary letters were issued to the son.

Throughout 2008, the son attempted to ascertain the status of the estate. He eventually contacted another attorney. In March, 2009, the judge requested Doudin turn over the file and his \$500.00 retainer (less the filing fee) to the subsequent attorney.

Doudin should not have requested a retainer as the fees should have been paid through the estate.

During the investigation into all of the complaints, the assigned investigator repeatedly requested information (client files and accounting records) from Doudin and then, after Doudin retained counsel, from counsel. The investigator and counsel had a serious personality conflict. The files and accounting records were never produced.

Doudin was requested to schedule an appointment for an audit of his trust account with the compliance auditor who is employed by the Office of the Disciplinary Administrator. He failed to schedule an appointment with the compliance auditor and a formal audit was never completed.

The Office of the Disciplinary Administrator

exercised its subpoena power and obtained Doudin's trust account records. None of the client funds were deposited into the trust account.

Doudin violated KRPC 1.1 when he unnecessarily filed a probate case when the decedent had died testate.

Doudin repeatedly violated KRPC 1.3 for failing to diligently and promptly represent all of the complainants.

Doudin repeatedly violated KRPC 1.4(a) when he failed to keep all of his clients informed of the status of his case.

Doudin repeatedly violated KRPC 1.15 when he failed to deposit unearned fees into his attorney trust account.

Doudin violated KRPC 3.2 when he failed to enter a timely appearance in the divorce matter.

Doudin violated KRPC 8.1(b) and Kansas Supreme Court Rule 207(b) when he failed to cooperate in the requests for appointments and information during the disciplinary process. The Kansas Supreme Court held that even though his counsel told both the Kansas Supreme Court and the Hearing Panel that it was counsel's fault the records were not turned over; that it was Doudin's individual responsibility to make sure the Rules were being followed.

Doudin violated Kansas Supreme Court Rule 211(b) when he failed to file a timely answer to the Formal Complaint.

Doudin filed a probation plan the day before the hearing. In order for the Panel to consider placement of a Respondent on probation, the plan must be submitted at least 14 days before the hearing. Additionally, the Respondent must be complying with all of the conditions of the plan by the time of the hearing. *See* Kansas Supreme Court Rule 211(g)(3). (2010 Kan. Ct.

R. Annot. 327).

At the time of oral argument before the Supreme Court, Doudin had not yet implemented the full proposed probationary plan.

Doudin was indefinitely suspended and will be required to undergo a reinstatement hearing pursuant to Kansas Supreme Court Rule 219. (2010 Kan. Ct. R. Annot. 370).

In the Matter of Gillian Luttrell

292 Kan. 51, 252 P.3d 111 (2011)

April 2011

Indefinite suspension

Rules violated: 1.3 (diligence); 1.4(a) (communication); 1.15 (safekeeping of property); 8.1(b) (failure to respond to requests for information during the disciplinary process); Kansas Supreme Court Rules 207(b) (duty to cooperate with disciplinary investigation) and 211(b) (failure to file an answer).

Luttrell failed to appear before the Hearing Panel and failed to appear before the Kansas Supreme Court.

Luttrell was suspended from the practice of law in October, 2010, for failing to comply with the annual registration requirements.

This disciplinary action involves four separate complaints.

In 2008, Luttrell was retained to defend a client in a civil matter. Luttrell failed to respond to discovery requests. The other side filed a Motion to Compel and a Motion for Summary Judgment.

Luttrell responded to the Motion to Compel but failed to appear at the hearing. Luttrell indicated she had failed to calendar the hearing. The court rescheduled the matter.

On the date of the hearing, Luttrell appeared and informed the court that her client was in a coma. She agreed to respond to the discovery requests within 15 days of her client's release from the hospital. Thereafter, the other side attempted to learn of her client's condition, to no avail.

Eventually, the court set the undecided Motion for Summary Judgment. Despite being sent notice, Luttrell failed to appear. Judgment was entered in favor of the other side.

The judge filed a disciplinary complaint. Luttrell admitted she had not been diligent.

A soldier, only one day after returning from his deployment from Iraq, was served with divorce papers. Upon receiving the papers, the soldier retained a lawyer who was planning on retiring and referred the soldier to Luttrell. The soldier paid \$750.00 on April 17, 2008.

The soldier had been ordered to pay temporary maintenance. One of his objectives was to modify that order. He also wanted the divorce completed by the time he was redeployed in August, 2009.

Luttrell filed a motion to modify the support but did nothing to further the action. The parties negotiated their own modification.

In April 2010, the soldier contacted Luttrell. He indicated that the parties had resolved all of their issues and requested Luttrell take steps to finalize the divorce. As of the date of the disciplinary hearing in October, 2010, the divorce was still not complete. Luttrell took no steps to finalize the matter.

In July, 2008, Luttrell was retained to probate an estate. She was paid \$1,000.00. Luttrell failed to take any action to probate the estate.

In April, 2009, Luttrell was retained in a divorce action. Luttrell was paid \$500.00 in

attorney fees and \$160.00 for the filing fee. Luttrell deposited the attorney fee check.

Luttrell told the client the paperwork would be ready for his signature by April 15, 2010. She failed to contact the client on that date. The client contacted Luttrell. She told the client the papers would be ready by April 17, 2010. She failed to produce the papers as promised.

Five days later, the client informed Luttrell he was terminating her services and wanted his money back. Luttrell returned the original, uncashed check for the filing fees and told the client she would produce a billing statement. She never produced a billing statement. She never refunded any money.

The client sued Luttrell and obtained a default judgment.

After responding to the first complaint, Luttrell failed to respond. She failed to appear at the hearing.

Luttrell violated KRPC 1.3 by failing to diligently and promptly represent her clients.

Luttrell violated KRPC 1.4(a) by failing to communicate with her clients.

Luttrell violated KRPC 1.15 by failing to refund unearned fees.

Luttrell violated Kansas Supreme Court Rule 207(b) by failing to cooperate during the investigative process.

Luttrell violated Kansas Supreme Court Rule 211(b) by failing to file a timely Answer to the Formal Complaint.

Luttrell was indefinitely suspended from the practice of law. She will be required to undergo a reinstatement hearing pursuant to Kansas Supreme Court Rule 219, should she apply for reinstatement. (2010 Kan. Ct. R. Annot. 370).

Suspension for a Definite Period of Time

In the Matter of Michael E. Foster
292 Kan. 940, 258 P.3d 375 (2011)

August 2011

Six-month suspension

Rules violated: 1.1 (competence); 1.3 (diligence); 1.4(a) (communication); and 3.2 (expediting litigation).

Foster was represented by counsel.

In 1991, Foster was retained to probate an estate. Foster commenced representation. In July 1991, the court appointed an administrator. In August 1991, Foster filed an inventory and valuation. In November 1991, the court approved the sale of real property.

In November 1992, Foster filed an application with the court for a partial distribution to each of the four heirs.

Although the sale of the real property was completed in 1991, Foster failed to prepare and present an order to the court until 1994. Foster took no further steps to complete the matter.

In 1999, the executor died. Foster took no action to appoint a new administrator. Two other heirs died.

In 2005, the nephew of the only surviving heir began investigating the estate. The nephew retained counsel. It was discovered the estate had not paid taxes since 1994. It was also learned that Foster had periodically received royalty checks from oil and mineral rights. Foster placed the checks in the file and took no further action. By the time of the discovery, some checks could not be cashed due to the passage of time.

Foster's actions cost the estate \$44,659.56. A claim was made against Foster's malpractice carrier. The carrier denied coverage because

Foster had failed to notify it of the potential claim during the intervening renewal processes.

Foster was placed on diversion in 2004 for violation of some of the same rules. At that time, Foster did allude to the estate matter, but took no action to ensure it was investigated or made part of the diversion.

Foster violated KRPC 1.1 when he failed to represent the estate with the required thoroughness and preparation that was reasonably necessary for the representation.

Foster violated KRPC 1.3 when he failed to take any steps to complete the probate after 1994.

Foster violated KRPC 1.4 when he failed to inform the heirs the estate was receiving royalty checks.

Foster violated KRPC 3.2 by allowing the estate to languish more than 11 years, during which three of the four heirs died and the estate lost or incurred unnecessary expenses that exceeded \$44,000.

Foster was suspended for six months. He is required to undergo a reinstatement hearing pursuant to Kansas Supreme Court Rule 219, should he seek reinstatement. (2010 Kan. Ct. R. 370).

In the Matter of James M. Roswold

292 Kan. 136, 249 P.3d 1199 (2011)

April 2011

One-year suspension

Rules violated: 1.1 (competence); 1.3 (diligence); 1.4(a) (communication); 1.5(d) (fees); 5.1(a) and (c)(2) (responsibilities of partners, managers and supervisory lawyers); 5.5(b) (unauthorized practice of law); 8.4(a) (misconduct) and Supreme Court Rule 116(a) (admission *pro hac vice* of out-of-state attorney).

Roswold was represented by counsel.

Roswold was admitted to the practice of law in Missouri in 1990. In 1994, he became licensed in Kansas. He associated with a partner (Schmid) who was licensed only in Missouri.

In February 2004, Schmid was contacted about a potential medical malpractice case involving four physicians. Schmid accepted the case. No fee agreement was executed, even though it was a contingency fee agreement. The case was to be filed in Kansas.

Schmid prepared pleadings for Roswold's signature. Roswold was listed in court records as the attorney of record.

At no time did Roswold apply for the admission of Schmid in the Kansas courts. Schmid was the lead counsel. Roswold merely reviewed and signed pleadings.

The case was dismissed without prejudice because no expert had been located.

In December 2004, the case was refiled. In 2006, two doctors were dismissed from the case because no expert had been located to establish their negligence.

In 2007, the two remaining doctors filed individual Motions for Summary Judgment. The motions were directed to Schmid. Schmid intentionally concealed the fact that these motions had been filed.

Schmid contacted the client, mentioned the motions and recommended settlement.

Schmid did not prepare responses to the motions. The court granted the unopposed Motions for Summary Judgment. Schmid intentionally concealed the court's action from Roswold and the client.

Approximately three months after the case was

dismissed, Schmid contacted the client and told her the case could be settled for \$30,000.00. The client authorized settlement amounts between \$30,000.00 and \$35,000.00.

Two months later, Schmid told the client the case had been settled for \$32,500.00. Schmid then presented the client with a settlement sheet. The figures indicated that \$17,676.14 for expenses had been advanced, \$10,833.33 in fees were earned, and the client would receive \$3,990.53. Schmid presented the client with a check for \$3,990.53.

The client was unhappy with the amount presented. She contacted another lawyer to look into how the settlement had been divided. That lawyer discovered the case had been decided adversely to the client in July 2007.

The client contacted Schmid and told him she was considering filing a disciplinary complaint. Schmid agreed to meet with the client. At that time, Schmid produced a check in the amount of \$10,833.33, the amount of the claimed fees.

Roswold violated KRPC 1.1 when he, as the attorney of record, failed to ensure the client was adequately represented.

Roswold violated KRPC 1.3 when he failed to ensure the client was diligently and promptly represented.

Roswold violated KRPC 1.4(a) when he failed to take an active role in the case and make sure the client was informed of all events that occurred in the case.

Roswold violated KRPC 1.5(d) by failing to make sure a written contingency fee agreement was in place.

Roswold violated KRPC 1.5(a) by failing to make sure Schmid was complying with the KRPC.

Roswold stipulated he violated KRPC 5.1(c)(2).

Roswold violated KRPC 5.5(b) and 8.4(a) when he knowingly allowed Schmid to meet with, advise, and otherwise represent the client, when Schmid was not licensed in Kansas.

Roswold violated Kansas Supreme Court Rule 116(a) when he failed to have Schmid admitted *pro hac vice*.

The Court also wrote that applications to appear *pro hac vice* must be filed as soon as reasonably possible. The Court noted that this must be before out-of-state counsel's active involvement with any pretrial proceedings. The Court clarified that their rule does not require local counsel to be actively present, in person, each time there is a proceeding. The Court left what will be a required appearance to the local court or local rule of the court with jurisdiction.

Roswold was suspended for a period of one year. The Court granted leave for Roswold to seek early reinstatement if he was in compliance with certain conditions. If he does not seek early reinstatement, he will be required to undergo a reinstatement hearing pursuant to Kansas Supreme Court Rule 219. (2010 Kan. Ct. R. Annot. 370).

PUBLISHED CENSURE

In the Matter of Bart A. Chavez

292 Kan. 45, 251 P.3d 628 (2011)

April 2011

Published censure

Rules violated: 3.5(d) (engaging in undignified or discourteous conduct degrading to a tribunal) and 8.4(d) (engaging in conduct prejudicial to the administration of justice).

Chavez appeared *pro se*.

Chavez was admitted to the practice of law in Kansas in 1991. He sought and was granted permission to be placed on inactive status in

1997. He had been admitted to practice law in Nebraska. Chavez practices before the Federal Immigration Court.

In 2006, Chavez began representing a client whose case was set before the Elizabeth, New Jersey, Immigration Court. The case was transferred to Dallas, Texas.

Chavez requested a continuance of a scheduled hearing. The court denied the request. Two days later, Chavez filed a Motion to Withdraw. The court denied the Motion.

A week later, Chavez filed a second Motion to Withdraw. The court denied the Motion.

The Court Administrator called Chavez to inform him the Court had denied his Motion. Chavez became very angry. He engaged in a confrontational and abusive conversation. During the conversation Chavez used offensive and disrespectful language directed at both the Court Administrator and the Court.

Chavez requested an opportunity to be heard.

The Court Administrator relayed the request to the Court. The Court denied the request. The Court Administrator called Chavez to inform him of the Court's decision. Again, Chavez engaged in disrespectful and offensive language and made disrespectful comments directed at the Court Administrator and the Court.

Two days later, Chavez called the Court Administrator. Again, he engaged in a confrontational conversation with the Court Administrator. Again, he used offensive and disrespectful language.

Chavez failed to appear at the scheduled hearing.

In August, 2008, the Office of the General Counsel for the United States Department of Justice, Executive Office for Immigration Review (EIOR) filed a Notice of Intent to

Discipline the Respondent. The EIOR sought a suspension as a sanction.

In April 2008, Chavez entered into a settlement agreement. Chavez admitted he engaged in discourteous conduct. As part of the agreement, Chavez was publically censured.

Chavez self-reported his misconduct to Nebraska. Chavez was publically reprimanded by Nebraska.

Chavez was disciplined by published censure by the Kansas Supreme Court.

Probation Revoked

In the Matter of Richard E. Jones

____ Kan. ____, ____ P.3d ____, No. 100,491, February 15, 2012

On October 17, 2008, Jones was suspended from the practice of law for a period of six months. The Court suspended imposition of the suspension and placed Jones on probation for two years, subject to certain terms and conditions. The Court extended the probationary period because Jones failed to satisfy the terms and conditions during the original two-year probationary period. *In the Matter of Richard E. Jones*, 287 Kan. 101, 193 P.3d 899 (2008).

Despite the extension, Jones did not satisfy the terms of his probation. The Court issued an Order to Show Cause and after a hearing, the Court imposed the original term of suspension.

[NOTE: A probationer is on probation until the probationer affirmatively provides the Court with demonstrative evidence that they have complied with the probationary terms, even if that is longer than the length of time originally ordered. *See* Kansas Supreme Court Rule 211 2010 Kan. Ct. R. Annot. 330.]

Discharge from Probation

In the Matter of Russell W. Hasenbank

291 Kan. 866, 248 P.3d 279 (2011)

Hasenbank was placed on probation on February 2, 2007 for a period of four years. *In re Hasenbank*, 283 Kan. 155, 151 P.3d 1 (2007). The probation period was made retroactive to June 1, 2006. Hasenbank complied with all of the terms and conditions of his probation. Hasenbank was successfully discharged from probation on March 22, 2011.

Reinstatement

***In the Matter of Charles T. Frahm*
292 Kan. 365, 253 P.3d 340 (2011)**

Frahm was suspended from the practice of law in Kansas on November 19, 2010. *In re Frahm*, 291 Kan. 520, 241 P.3d 1010 (2010) the period of suspension was made retroactive to the date of his temporary suspension of April 1, 2009. Frahm complied with all of the requirements of reinstatement and was reinstated on June 22, 2011.

***In the Matter of Russell B. Cranmer*
292 Kan. 345, 253 P.3d 339 (2011)**

Cranmer was suspended from the practice of law for a period of six months on December 5, 2008. *In re Cranmer*, 287 Kan. 495, 196 P.3d 932 (2008). The Court reinstated Cranmer to the practice of law on June 22, 2011.

***In the Matter of James A. Cline*
292 Kan. 365, 253 P.3d 340 (2011)**

Cline was suspended from the practice of law for a period of three years on October 8, 2009. *In re Cline*, 289 Kan. 834, 217 P.3d 455 (2009). In that opinion, the Court allowed Cline to petition for reinstatement after 1 year, subject to conditions. On June 16, 2011, Cline filed a motion to suspend the remaining two years of his suspension. The Court granted the motion on June 22, 2011.

In the Matter of Kevin P. Shepherd

292 Kan. 189, 254 P.3d 1262 (2011)

Shepherd was suspended from the practice of law for a period of three years on November 25, 2009. *In re Shepherd*, 289 Kan. 1116, 220 P.3d 359 (2009). In that opinion, the Court allowed Shepherd to request that the suspension be lifted after a period of one year. Shepherd filed the appropriate motions which included a probation plan to be followed for the remaining two years. The Court granted the motion and placed Shepherd on probation, subject to conditions, for two years on May 2, 2011.

***In the Matter of Michael R. McIntosh*
n/k/a Atif Michael McIntosh Abdel-
Khaliq
291 Kan. 864, 248 P.3d 377 (2011)**

McIntosh was indefinitely suspended from the practice of law on October 29, 1999. *In re McIntosh*, 268 Kan. 73, 991 P.2d 403 (1999). McIntosh filed a petition for reinstatement in June, 2009. A hearing pursuant to Kansas Supreme Court Rule 219 (2010 Kan. Ct. R. Annot. 370) was conducted. The panel unanimously recommended that McIntosh's petition for reinstatement be granted. The Court reinstated McIntosh on March 22, 2011.

***In the Matter of Gregory Swanson*
291 Kan. 867, 248 P.3d 278 (2011)**

Swanson was suspended from the practice of law for two years on January 30, 2009. *In re Swanson*, 288 Kan. 185, 200 P.3d 1205 (2009). Swanson complied with the conditions of reinstatement. The Court reinstated Swanson on March 22, 2011.